

ASSEMBLY BILL

No. 1457

Introduced by Assembly Member Huber

January 9, 2012

An act to amend Sections 25301, 25302, and 25334 of the Public Resources Code, and to amend Sections 372 and 464 of, and to repeal Article 2 (commencing with Section 334) of Chapter 2.3 of Part 1 of Division 1 of, the Public Utilities Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

AB 1457, as introduced, Huber. Electricity Oversight Board.

Existing law establishes the Electricity Oversight Board to oversee the Independent System Operator and the Power Exchange in order to ensure the success of electric industry restructuring and to ensure a reliable supply of electricity in the transition to a new market structure.

This bill would repeal those provisions, and make various conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 25301 of the Public Resources Code is
- 2 amended to read:
- 3 25301. (a) At least every two years, the commission shall
- 4 conduct assessments and forecasts of all aspects of energy industry
- 5 supply, production, transportation, delivery and distribution,
- 6 demand, and prices. The commission shall use these assessments
- 7 and forecasts to develop energy policies that conserve resources,

1 protect the environment, ensure energy reliability, enhance the
2 state's economy, and protect public health and safety. To perform
3 these assessments and forecasts, the commission may require
4 submission of demand forecasts, resource plans, market
5 assessments, and related outlooks from electric and natural gas
6 utilities, transportation fuel and technology suppliers, and other
7 market participants. These assessments and forecasts shall be done
8 in consultation with the appropriate state and federal agencies
9 including, but not limited to, the Public Utilities Commission, the
10 Office of Ratepayer Advocates, the Air Resources Board, ~~the~~
11 ~~Electricity Oversight Board~~, the Independent System Operator,
12 the Department of Water Resources, the California Consumer
13 Power and Conservation Financing Authority, the Department of
14 Transportation, and the Department of Motor Vehicles.

15 (b) In developing the assessments and forecasts prepared
16 pursuant to subdivision (a), the commission shall do all of the
17 following:

18 (1) Provide information about the performance of energy
19 industries.

20 (2) Develop and maintain the analytical capability sufficient to
21 answer inquiries about energy issues from government, market
22 participants, and the public.

23 (3) Analyze and develop energy policies.

24 (4) Provide an analytical foundation for regulatory and policy
25 decisionmaking.

26 (5) Facilitate efficient and reliable energy markets.

27 SEC. 2. Section 25302 of the Public Resources Code is
28 amended to read:

29 25302. (a) Beginning November 1, 2003, and every two years
30 thereafter, the commission shall adopt an integrated energy policy
31 report. This integrated report shall contain an overview of major
32 energy trends and issues facing the state, including, but not limited
33 to, supply, demand, pricing, reliability, efficiency, and impacts on
34 public health and safety, the economy, resources, and the
35 environment. Energy markets and systems shall be grouped and
36 assessed in three subsidiary volumes:

37 (1) Electricity and natural gas markets.

38 (2) Transportation fuels, technologies, and infrastructure.

39 (3) Public interest energy strategies.

1 (b) The commission shall compile the integrated energy policy
2 report prepared pursuant to subdivision (a) by consolidating the
3 analyses and findings of the subsidiary volumes in paragraphs (1),
4 (2), and (3) of subdivision (a). The integrated energy policy report
5 shall present policy recommendations based on an indepth and
6 integrated analysis of the most current and pressing energy issues
7 facing the state. The analyses supporting this integrated energy
8 policy report shall explicitly address interfuel and intermarket
9 effects to provide a more informed evaluation of potential tradeoffs
10 when developing energy policy across different markets and
11 systems.

12 (c) The integrated energy policy report shall include an
13 assessment and forecast of system reliability and the need for
14 resource additions, efficiency, and conservation that considers all
15 aspects of energy industries and markets that are essential for the
16 state economy, general welfare, public health and safety, energy
17 diversity, and protection of the environment. This assessment shall
18 be based on determinations made pursuant to this chapter.

19 (d) Beginning November 1, 2004, and every two years thereafter,
20 the commission shall prepare an energy policy review to update
21 analyses from the integrated energy policy report prepared pursuant
22 to subdivisions (a), (b), and (c), or to raise energy issues that have
23 emerged since the release of the integrated energy policy report.
24 The commission may also periodically prepare and release
25 technical analyses and assessments of energy issues and concerns
26 to provide timely and relevant information for the Governor, the
27 Legislature, market participants, and the public.

28 (e) In preparation of the report, the commission shall consult
29 with the following entities: the Public Utilities Commission, the
30 Office of Ratepayer Advocates, the State Air Resources Board,
31 ~~the Electricity Oversight Board~~, the Independent System Operator,
32 the Department of Water Resources, the California Consumer
33 Power and Conservation Financing Authority, the Department of
34 Transportation, and the Department of Motor Vehicles, and any
35 federal, state, and local agencies it deems necessary in preparation
36 of the integrated energy policy report. To assure collaborative
37 development of state energy policies, these agencies shall make a
38 good faith effort to provide data, assessment, and proposed
39 recommendations for review by the commission.

(f) The commission shall provide the report to the Public Utilities Commission, the Office of Ratepayer Advocates, the State Air Resources Board, ~~the Electricity Oversight Board,~~ the Independent System Operator, the Department of Water Resources, the California Consumer Power and Conservation Financing Authority, and the Department of Transportation. For the purpose of ensuring consistency in the underlying information that forms the foundation of energy policies and decisions affecting the state, those entities shall carry out their energy-related duties and responsibilities based upon the information and analyses contained in the report. If an entity listed in this subdivision objects to information contained in the report, and has a reasonable basis for that objection, the entity shall not be required to consider that information in carrying out its energy-related duties.

(g) The commission shall make the report accessible to state, local, and federal entities and to the general public.

SEC. 3. Section 25334 of the Public Resources Code is amended to read:

25334. (a) Upon receipt of an application or upon its own motion for designation of a transmission corridor zone, the commission shall arrange for the publication of a summary of the application in a newspaper of general circulation in each county where the proposed transmission corridor zone would be located, and shall notify all property owners within, or adjacent to, the transmission corridor zone. The commission shall transmit a copy of the application for designation to all cities, counties, and state and federal agencies having an interest in the proposed transmission corridor zone. The commission shall publish the application for designation on its Internet Web site, and notify members of the public that the application is available on the commission's Internet Web site.

(b) As soon as practicable after the receipt of an application or upon its own motion for designation of a transmission corridor zone, the commission shall notify cities, counties, state and federal agencies, and California Native American tribes in whose jurisdictions the proposed transmission corridor zone would be located regarding the proposed transmission corridor zone and the objectives of the most recent strategic plan for the state's electric transmission grid. The commission's notice shall solicit information from, and the commission shall confer with, all interested cities,

counties, state and federal agencies, and California Native American tribes regarding their land use plans, existing land uses, and other factors in which they have expertise or interest with respect to the proposed transmission corridor zone. The commission shall provide any interested city, county, state or federal agency, California Native American tribe, or member of the public, including any property owner within the proposed transmission corridor zone, ample opportunity to participate in the commission's review of a proposed transmission corridor zone.

(c) The commission shall request affected cities, counties, state and federal agencies, ~~the Electricity Oversight Board~~, the Independent System Operator, interested California Native American tribes, and members of the public, including any property owner within the proposed transmission corridor zone, to provide comments on the suitability of the proposed transmission corridor zone with respect to environmental, public health and safety, land use, economic, and transmission-system impacts or other factors on which they may have expertise.

(d) The commission shall require a person who files an application for the designation of a transmission corridor zone to pay a fee sufficient to reimburse the commission for all costs associated with reviewing the application. If the commission initiates the designation of a transmission corridor zone on its own motion, the commission shall fix the surcharge imposed pursuant to subdivision (b) of Section 40016 of the Revenue and Taxation Code, at a level sufficient to cover the commission's added costs.

(e) Upon receiving the commission's request for review of a proposed transmission corridor zone, a city or county may request a fee pursuant to Section 25538 to cover for the actual and added costs of this review and the commission shall pay this amount to the city or county.

SEC. 4. Article 2 (commencing with Section 334) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code is repealed.

SEC. 5. Section 372 of the Public Utilities Code is amended to read:

372. (a) It is the policy of the state to encourage and support the development of cogeneration as an efficient, environmentally beneficial, competitive energy resource that will enhance the reliability of local generation supply, and promote local business growth. Subject to the specific conditions provided in this section,

1 the commission shall determine the applicability to customers of
2 uneconomic costs as specified in Sections 367, 368, 375, and 376.
3 Consistent with this state policy, the commission shall provide
4 that these costs shall not apply to any of the following:

5 (1) To load served onsite or under an over the fence arrangement
6 by a nonmobile self-cogeneration or cogeneration facility that was
7 operational on or before December 20, 1995, or by increases in
8 the capacity of a facility to the extent that the increased capacity
9 was constructed by an entity holding an ownership interest in or
10 operating the facility and does not exceed 120 percent of the
11 installed capacity as of December 20, 1995, provided that prior to
12 June 30, 2000, the costs shall apply to over the fence arrangements
13 entered into after December 20, 1995, between unaffiliated parties.
14 For the purposes of this subdivision, “affiliated” means any person
15 or entity that directly, or indirectly through one or more
16 intermediaries, controls, is controlled by, or is under common
17 control with another specified entity. “Control” means either of
18 the following:

19 (A) The possession, directly or indirectly, of the power to direct
20 or to cause the direction of the management or policies of a person
21 or entity, whether through an ownership, beneficial, contractual,
22 or equitable interest.

23 (B) Direct or indirect ownership of at least 25 percent of an
24 entity, whether through an ownership, beneficial, or equitable
25 interest.

26 (2) To load served by onsite or under an over the fence
27 arrangement by a nonmobile self-cogeneration or cogeneration
28 facility for which the customer was committed to construction as
29 of December 20, 1995, provided that the facility was substantially
30 operational on or before January 1, 1998, or by increases in the
31 capacity of a facility to the extent that the increased capacity was
32 constructed by an entity holding an ownership interest in or
33 operating the facility and does not exceed 120 percent of the
34 installed capacity as of January 1, 1998, provided that prior to June
35 30, 2000, the costs shall apply to over the fence arrangements
36 entered into after December 20, 1995, between unaffiliated parties.

37 (3) To load served by existing, new, or portable emergency
38 generation equipment used to serve the customer’s load
39 requirements during periods when utility service is unavailable,

1 provided the emergency generation is not operated in parallel with
2 the integrated electric grid, except on a momentary parallel basis.

3 (4) After June 30, 2000, to any load served onsite or under an
4 over the fence arrangement by any nonmobile self-cogeneration
5 or cogeneration facility.

6 (b) Further, consistent with state policy, with respect to
7 self-cogeneration or cogeneration deferral agreements, the
8 commission shall do the following:

9 (1) Provide that a utility shall execute a final self-cogeneration
10 or cogeneration deferral agreement with any customer that, on or
11 before December 20, 1995, had executed a letter of intent (or
12 similar documentation) to enter into the agreement with the utility,
13 provided that the final agreement shall be consistent with the terms
14 and conditions set forth in the letter of intent and the commission
15 shall review and approve the final agreement.

16 (2) Provide that a customer that holds a self-cogeneration or
17 cogeneration deferral agreement that was in place on or before
18 December 20, 1995, or that was executed pursuant to paragraph
19 (1) in the event the agreement expires, or is terminated, may do
20 any of the following:

21 (A) Continue through December 31, 2001, to receive utility
22 service at the rate and under terms and conditions applicable to
23 the customer under the deferral agreement that, as executed,
24 includes an allocation of uneconomic costs consistent with
25 subdivision (e) of Section 367.

26 (B) Engage in a direct transaction for the purchase of electricity
27 and pay uneconomic costs consistent with Sections 367, 368, 375,
28 and 376.

29 (C) Construct a self-cogeneration or cogeneration facility of
30 approximately the same capacity as the facility previously deferred,
31 provided that the costs provided in Sections 367, 368, 375, and
32 376 shall apply consistent with subdivision (e) of Section 367,
33 unless otherwise authorized by the commission pursuant to
34 subdivision (c).

35 (3) Subject to the firewall described in subdivision (e) of Section
36 367, provide that the ratemaking treatment for self-cogeneration
37 or cogeneration deferral agreements executed prior to December
38 20, 1995, or executed pursuant to paragraph (1) shall be consistent
39 with the ratemaking treatment for the contracts approved before
40 January 1995.

1 (c) The commission shall authorize, within 60 days of the receipt
2 of a joint application from the serving utility and one or more
3 interested parties, applicability conditions as follows:

4 (1) The costs identified in Sections 367, 368, 375, and 376 shall
5 not, prior to June 30, 2000, apply to load served onsite by a
6 nonmobile self-cogeneration or cogeneration facility that became
7 operational on or after December 20, 1995.

8 (2) The costs identified in Sections 367, 368, 375, and 376 shall
9 not, prior to June 30, 2000, apply to any load served under over
10 the fence arrangements entered into after December 20, 1995,
11 between unaffiliated entities.

12 (d) For the purposes of this subdivision, all onsite or over the
13 fence arrangements shall be consistent with Section 218 as it
14 existed on December 20, 1995.

15 (e) To facilitate the development of new microcogeneration
16 applications, electrical corporations may apply to the commission
17 for a financing order to finance the transition costs to be recovered
18 from customers employing the applications.

19 (f) To encourage the continued development, installation, and
20 interconnection of clean and efficient self-generation and
21 cogeneration resources, to improve system reliability for consumers
22 by retaining existing generation and encouraging new generation
23 to connect to the electric grid, and to increase self-sufficiency of
24 consumers of electricity through the deployment of self-generation
25 and cogeneration, both of the following shall occur:

26 (1) ~~The commission and the Electricity Oversight Board~~ shall
27 determine if any policy or action undertaken by the Independent
28 System Operator, directly or indirectly, unreasonably discourages
29 the connection of existing self-generation or cogeneration or new
30 self-generation or cogeneration to the grid.

31 (2) ~~If the commission and the Electricity Oversight Board find~~
32 *finds* that any policy or action of the Independent System Operator
33 unreasonably discourages the connection of existing self-generation
34 or cogeneration or new self-generation or cogeneration to the grid,
35 ~~the commission and the Electricity Oversight Board~~ shall undertake
36 all necessary efforts to revise, mitigate, or eliminate that policy or
37 action of the Independent System Operator.

38 SEC. 6. Section 464 of the Public Utilities Code is amended
39 to read:

1 464. (a) Reasonable expenditures by transmission owners that
2 are electrical corporations to plan, design, and engineer
3 reconfiguration, replacement, or expansion of transmission facilities
4 are in the public interest and are deemed prudent if made for the
5 purpose of facilitating competition in electric generation markets,
6 ensuring open access and comparable service, or maintaining or
7 enhancing reliability, whether or not these expenditures are for
8 transmission facilities that become operational.

9 (b) ~~The commission and the Electricity Oversight Board~~ shall
10 jointly facilitate the efforts of the state's transmission owning
11 electrical corporations to obtain authorization from the Federal
12 Energy Regulatory Commission to recover reasonable expenditures
13 made for the purposes stated in subdivision (a).

14 (c) Nothing in this section alters or affects the recovery of the
15 reasonable costs of other electric facilities in rates pursuant to the
16 commission's existing ratemaking authority under this code or
17 pursuant to the Federal Power Act (41 Stat. 1063; 16 U.S.C. Secs.
18 791a, et seq.). The commission may periodically review and adjust
19 depreciation schedules and rates authorized for an electric plant
20 that is under the jurisdiction of the commission and owned by an
21 electrical corporation and periodically review and adjust
22 depreciation schedules and rates authorized for a gas plant that is
23 under the jurisdiction of the commission and owned by a gas
24 corporation, consistent with this code.